



WEB COPY



CrI.O.P. (MD) No.3487 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	14.09.2022
DELIVERED ON	28.09.2022

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

CrI.O.P. (MD) No.3487 of 2015 & M.P. (MD) Nos.1 & 2 of 2015

R. Mathivanan

Petitioner

vs.

M. Ganesan

S/o Marappa Gounder

No.33/31, Alexandria Road

Cantonment, Trichy – 1

represented by his Power Agent

V. Kalaichelvan

S/o P. Venugopal

No.48, Nachiarkovil West Street

Woraiyur, Trichy – 3

Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records in S.T.C.No.764 of 2013 on the file of the Judicial Magistrate Court No.II, Trichy and quash the same with regard to the petitioner.

For petitioner

Mr. S. Sakthivel

for Mr. S.P. Venkatasubramanian



Crl.O.P. (MD) No.3487 of 2015

WEB COPY

ORDER

Originally, this petition was filed in the Madurai Bench as the cause of action arose in Trichy. However, at the request of the learned counsel on either side, this petition was transferred to the file of the Principal Seat and was directed to be clubbed along with Crl.O.P. (MD) No.20641 of 2014 to be heard together.

2 This petition has been filed for quashing the proceedings in S.T.C. No.764 of 2013 on the file of the Judicial Magistrate Court No.II, Trichy, that has been initiated by the respondent under Section 138 of the Negotiable Instruments Act.

3 The main contention of the petitioner is that in respect of the same transaction, a police complaint was lodged and a case was registered in Cr.No.28 of 2014 by the City Crime Branch, Trichy, and therefore, the present prosecution is an abuse of process of law.

4 This Court gave its anxious consideration to the aforesaid submission.

5 This Court perused the FIR and the complaint in S.T.C. No.764 of 2013. Though there are some overlapping of facts, yet, the allegations in Cr. No.28 of 2014 are different and distinct from the allegations in S.T.C. No.764 of 2013. In



CrI.O.P. (MD) No.3487 of 2015

S.T.C. No.764 of 2013, Vignesh Alloys Pvt. Ltd., represented by its authorised signatory, Mathivanan, had issued seven cheques for Rs.10 lakhs each and the same were dishonoured, pursuant to which, statutory notice was issued and on the failure of the accused to repay the amount, the prosecution under Section 138 of the Negotiable Instruments Act was launched. There are *prima facie* materials in the complaint in S.T.C. No.764 of 2013 and hence, the said prosecution cannot be quashed at the threshold. That apart, this Court cannot go into disputed questions of fact in a quash petition under Section 482 Cr.P.C. This Court has also dismissed, today, the petition being CrI.O.P. No.20641 of 2014 that was filed to quash the FIR in Trichy City Crime Branch Cr.No.28 of 2014 *vide* separate order.

In the result, this quash petition is dismissed as being devoid of merits.
Connected M.Ps. stand closed.

28.09.2022

cad



WEB COPY



Crl.O.P. (MD) No.3487 of 2015

P.N. PRAKASH, J.

cad

To

- 1 The Judicial Magistrate No.II
Trichy
- 2 The Public Prosecutor
Madras High Court
Chennai 600 104

Crl.O.P. (MD) No.3487 of 2015

28.09.2022